

REMARKS

Claims 1 – 26 remain in the application and stand finally rejected. Claims 1, 3, 10 – 13, 15, 16, 19, 20 and 23 – 25 are amended by this proposed amendment. Although this Response is being timely filed, the Commissioner is hereby authorized to charge any additional fees that may be required for this paper or credit any overpayment to Deposit Account No. No. 50-3818.

The MPEP provides in pertinent part “the examiner should always look for enabled, allowable subject matter and communicate to applicant what that subject matter is at the earliest point possible in the prosecution of the application.” MPEP §2164.04 (emphasis original).

Claims 16 – 23 are finally rejected under 35 U.S.C. §101 as being directed to non-statutory subject matter, i.e. “as a program per se, or that the program product and medium is merely a carrier wave or signal, which is non-statutory.” Final Office action (Final), #6, page 3. Claims 16 and 20 recite “a computer usable medium having computer readable program code **stored** thereon,” Claims 16, lines 3 – 4, and claim 20, lines 4 – 5 (emphasis added). Applicant avers that this could not be a wave or a signal. Therefore, claims 16 – 23 are directed to statutory subject matter.

Furthermore, the Final specifically notes that this same recitation of instructions **stored on** the computer-readable medium in claims 24 – 26 makes those claims directed to statutory subject matter; and they were **not** rejected. Thus, claims 16 – 23 are likewise directed to statutory subject matter. Reconsideration and withdrawal of the final rejection of claims 16 – 23 under 35 U.S.C. §101 is respectfully requested.

Claims 1 – 26 are finally rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 6,484,033 to Murray in combination with U.S. Patent No. 7,039,420 to Koskinen et al.

Claims 1, 3, 10 – 13, 15, 16, 19, 20 and 23 – 25 are amended by this proposed amendment to recite that the communications devices are distributed over a LAN and connected telephone network; and, that a user using other than an associated device is an inconsistency that triggers providing reminders. This is supported by the specification in general, i.e., implicit in determining location and presence is tracking users using any of the networked devices; and

specifically supported in the specification by “when a user unexpectedly logs on from a terminal 102, 110.” Application, page 7, lines 13 – 14. No new matter is added.

As previously noted, Koskinen et al. teaches (and claims) taking action in response to a consistency in what is expected, i.e., complying with the conditions for activating. However, “if the conditions for activating the action **are not met** within said validity time, the action data is deleted **after the expiry** of said validity time.” *Id.*, claim 5, col. 14, lines 45 – 48 (emphasis added); claim 14, col. 15, lines 31 – 33; *and see*, col. 4, lines 6 – 10. If, for example, the scheduled event were for a user’s office and the user, home sick, left all of his/her Koskinen et al. devices in the office; the Koskinen et al. conditions for activating the action would be met even though the user was home logged in from a home computer. A system according to a preferred embodiment of the present invention would recognize this as an inconsistency.

As also previously noted for Murray, between events, the device user 68 can be using other devices, traveling to distant locations, even out of the country or logged in from as home computer, unnoticed and unprodded by the Murray application server 76. All of this would be recognized as an inconsistency in a system according to a preferred embodiment of the present invention. By contrast, as long as the Murray device user 68 is in the correct location (in the user’s office in this example) when the event occurs, Murray does not send an update message, “the process proceeds to Step 168.” *Id.*, line 46. *See also*, col. 11, lines 1 – 43. Therefore, the combination of Murray with Koskinen et al. does not result in, or suggest, the present invention as recited in amended claims 1, 3, 10 – 13, 15, 16, 19, 20 and 23 – 25.

Moreover, dependent claims include all of the differences with the references, as the claims from which they depend. MPEP §2143.03 (“If an independent claim is nonobvious under 35 U.S.C. 103, then any claim depending therefrom is nonobvious. *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988).”). Therefore, Murray fails to teach or suggest the present invention as recited by claims 2, 4 – 9, 14, 17, 18, 21, 22 and 26 which depend from claims 1, 12, 16, 20 and 24. Entry of the amendment, reconsideration and withdrawal of the final rejection of claims 1 – 26 under 35 U.S.C. §103(a) is respectfully requested.

The applicant thanks the Examiner for efforts, both past and present, in examining the application. Believing the application to be in condition for allowance, both for the amendment to the claims and for the reasons set forth above, the applicant respectfully requests that the Examiner enter the amendment, reconsider and withdraw the final rejection of claims 1 – 26 under 35 U.S.C. §§101 and 103(a) and allow the application to issue.

As the applicant has previously noted, MPEP §706 “Rejection of Claims,” subsection III, “PATENTABLE SUBJECT MATTER DISCLOSED BUT NOT CLAIMED” provides in pertinent part that

If **the examiner** is satisfied after the search has been completed that patentable subject matter has been disclosed and the record indicates that the applicant intends to claim such subject matter, he or she **may note** in the Office action that **certain aspects or features** of the patentable invention have not been claimed and that if properly claimed such claims **may be given favorable consideration**.

(emphasis added.) The applicant believes that the written description of the present application is quite different than and not suggest by any reference of record. Accordingly, should the Examiner believe anything further may be required, the Examiner is requested to contact the undersigned attorney at the local telephone number listed below for a telephonic or personal interview to discuss any other changes.

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Respectfully submitted,

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